IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6724 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

@

JAGDISHKUMAR JENABHAI PARMAR CRAFT INSTRUCTOR

Versus

NARANBHAI N PATEL MANAGING TRUSTEE

Appearance:

1. Special Civil Application No. 6724 of 2002

MR DP VORA for Petitioner No. 1

NOTICE SERVED BY DS for Respondent No. 1

RULE SERVED BY DS for Respondent No. 1-3

MR RV DESAI, AGP, for Respondent No. 2-3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 02/09/2002

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner has challenged the order

dated 9-7-2002 issued by respondent No.1 - Managing Trustee of the New Progressive Education Trust terminating the petitioner's services on the ground that the Hand Compositor trade in which the petitioner was appointed as Instructor in 1989 has been derecognised by the Director of Employment and Training as students are not willing to take up such course for studies. By the impugned order, the petitioner was sought to be relieved from 9-8-2002. However, on account of ad-interim protection granted by this Court, the petitioner has continue to remain in service.

2. At the hearing of this petition, Mr VM Gandhi, Director of the New Progressive Education Trust, Mahesana states that since no students are willing to take up the above course of Hand Compositor, that trade has been derecognised by the Director of Employment and Training and, therefore, the petitioner's services are not required. He further states that the petitioner cannot be absorbed as Instructor in any other trade at respondent No.1 institution but respondent No.1 has no objection if the petitioner is absorbed as an Instructor in the same trade or in some other trade at some other school. He further states that respondent No.1 is a grant-in-aid institution and that there are similar other grant-in-aid institutions in the State of Gujarat to whom respondents No.2 and 3 are giving salary grant and maintenance grant.

3. Mr Desai, learned AGP for respondents No.2 and 3 states that when respondent No.1- institution was granted recognition, it was made clear in clause (13) of the agreement that employment and termination of staff was to be done by the institution and that Government would not have any liability towards the staff.

4. Mr DP Vora for the petitioner and respondent No.1 points out that at the relevant time the Government was not paying any grant to such institutions but it was subsequently that salary grant is being paid to such institutions and, therefore, clause (13) of the agreement is to be read in light of the new policy.

5. Having heard the learned counsel for the parties, it appears to the Court that in the peculiar facts and circumstances of the case, it would be just and proper to direct the petitioner to make a representation to respondent No.2 with a request to direct any other institution to absorb the petitioner in service in any trade which is appropriate considering the petitioner's qualifications or any other which is related to the

petitioner's present trade or in some other trade where the petitioner can be absorbed after some training. The petitioner is ready to join as an Instructor in any trade at any other school or on any administrative post at any other school.

In case such a representation is made, respondent No.2 and 3 shall consider the same as expeditiously as possible. It would not be out of place to mention at this stage that even if for any reason the petitioner cannot be absorbed in any other school at this stage, when any grant-in-aid institution running such technical courses approaches respondent No.2 for N.O.C. for making appointment, respondent No.2 shall consider whether the petitioner can be absorbed in such other institution and this shall be examined before granting N.O.C. to any grant-in-aid institution imparting training in technical courses. If the representation as aforesaid is made within two weeks from today, respondent No.2 shall consider the same as expeditiously as possible and preferably within two months from the date of receipt of the representation.

6. The petition is accordingly disposed of subject to the aforesaid directions. Rule is discharged. Ad-interim relief granted earlier shall continue till 15-11-2002 or if the petitioner is absorbed in any institution earlier, till then.

(M.S. Shah,J)

zgs/-